

# Senate File 471 - Introduced

SENATE FILE 471

BY COMMITTEE ON HEALTH AND  
HUMAN SERVICES

(SUCCESSOR TO SSB 1166)

(COMPANION TO HF 471 BY  
COMMITTEE ON HEALTH AND HUMAN  
SERVICES)

## A BILL FOR

1 An Act relating to mental health and disability services  
2 provided by the state and judicial procedures relating to  
3 child in need of assistance proceedings, adoptions, and the  
4 confinement of persons found incompetent to stand trial.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

STATE MENTAL HEALTH INSTITUTES — SPECIALIZATION

Section 1. Section 226.1, subsection 2, paragraph a, subparagraph (1), Code 2023, is amended to read as follows:

(1) Treatment, training, care, habilitation, and support of persons with mental illness ~~or a substance abuse problem~~ including:

(a) Specialized treatment of behaviorally complex youth at a mental health institute located in Independence.

(b) Specialized treatment and security for adults ordered by the court into the custody of the state for the purposes of competency restoration, adults who have been acquitted of a crime by reason of insanity, and similarly situated adults at a mental health institute in Cherokee.

DIVISION II

CHILD IN NEED OF ASSISTANCE — SAFETY PLANS — TEMPORARY  
REMOVAL

Sec. 2. Section 232.79B, subsections 1, 2, and 3, Code 2023, are amended to read as follows:

1. For the purposes of *this section*, “*safety plan*” means a short-term, time-limited agreement entered into between the department and a child’s parent or guardian designed to address signs of imminent or impending danger to a child identified by the department.

2. Upon the department’s determination that potential harm to a child may be mitigated by the development of a safety plan, the department may enter into a safety plan with the child’s parent or guardian.

3. A safety plan shall not be construed as a removal from parental or guardian custody absent a court order placing the child with a person or facility other than the parent or guardian who entered into the safety plan.

Sec. 3. Section 232.95, subsection 4, Code 2023, is amended to read as follows:

4. If the court orders the child removed from the home

1 pursuant to subsection 2, paragraph ~~"a"~~ "b" or "c", the court  
2 shall hold a hearing to review the removal order within six  
3 months unless a dispositional hearing pursuant to section  
4 232.99 has been held.

5 Sec. 4. Section 232.102, subsection 10, Code 2023, is  
6 amended by striking the subsection.

7

DIVISION III

8 MENTAL HEALTH AND DISABILITY SERVICES REGIONS — GOVERNANCE —  
9 CORE SERVICES — REPORT

10 Sec. 5. Section 331.390, subsection 2, Code 2023, is amended  
11 by striking the subsection and inserting in lieu thereof the  
12 following:

13 2. The governing board shall comply with all of the  
14 following requirements:

15 a. Each member of the governing board shall have one vote.

16 b. The membership of the governing board shall not include  
17 employees of the department of health and human services or a  
18 nonelected employee of a county.

19 c. The membership of the governing board shall consist of  
20 the following:

21 (1) Members representing the boards of supervisors of  
22 counties comprising the region. Members representing the  
23 boards of supervisors for a region's counties shall not exceed  
24 forty-nine percent of the total membership of the governing  
25 board.

26 (2) One member who is an adult person who utilizes mental  
27 health and disability services or is an actively involved  
28 relative of such an adult person. This member shall be  
29 designated by the regional advisory committee formed by the  
30 governing board pursuant to paragraph "d".

31 (3) One member representing adult service providers in  
32 the region. This member shall be designated by the regional  
33 advisory committee formed by the governing board pursuant to  
34 paragraph "d".

35 (4) One member representing children's behavioral health

1 services providers in the region. This member shall be  
2 designated by the regional children's advisory committee formed  
3 by the governing board pursuant to paragraph "e".

4 (5) One member representing the education system in the  
5 region. This member shall be designated by the regional  
6 children's advisory committee formed by the governing board  
7 pursuant to paragraph "e".

8 (6) One member who is a parent of a child who utilizes  
9 children's behavioral health services or who is an actively  
10 involved relative of such a child. This member shall be  
11 designated by the regional children's advisory committee formed  
12 by the governing board pursuant to paragraph "e".

13 (7) One member representing law enforcement in the region.

14 (8) One member representing the judicial system in the  
15 region.

16 d. The governing board shall have a regional advisory  
17 committee consisting of adults who utilize services or actively  
18 involved relatives of such adults, service providers, and  
19 regional governing board members.

20 e. The governing board shall have a regional children's  
21 advisory committee consisting of parents of children who  
22 utilize services or actively involved relatives of such  
23 children, a member of the education system, an early childhood  
24 advocate, a child welfare advocate, a children's behavioral  
25 health service provider, a member of the juvenile court, a  
26 pediatrician, a child care provider, a local law enforcement  
27 representative, and regional governing board members.

28 Sec. 6. Section 331.397, subsection 4, Code 2023, is amended  
29 by adding the following new paragraph:

30 NEW PARAGRAPH. g. Outpatient competency restoration.

31 Sec. 7. Section 331.397A, subsection 4, Code 2023, is  
32 amended by adding the following new paragraph:

33 NEW PARAGRAPH. c. Outpatient competency restoration.

34 Sec. 8. Section 331.400, Code 2023, is amended to read as  
35 follows:

1     **331.400 Quarterly Annual reports.**

2     Beginning with the fiscal year beginning July 1, ~~2022~~ 2023,  
3     the department shall deliver on a ~~quarterly~~ annual basis  
4     a report to the general assembly that provides a summary of  
5     the status of implementing core services in each region,  
6     the accessibility of core services in each region, how each  
7     region is using the funding provided under section 225C.7A,  
8     and recommendations for improvements to the mental health and  
9     disability services system in order to attain the outcome  
10    improvement goals set by the department consistent with the  
11    goals specified in the performance-based contracts under  
12    section 225C.7A, subsection 2, paragraph "c", subparagraph (5).

13                                 DIVISION IV

14                                 ADOPTION NOTICES — HEARINGS

15    Sec. 9. Section 600.11, subsection 2, paragraph a,  
16    subparagraph (7), Code 2023, is amended by striking the  
17    subparagraph.

18    Sec. 10. Section 600.11, subsection 2, Code 2023, is amended  
19    by adding the following new paragraph:

20    NEW PARAGRAPH. *Ob.* (1) At least twenty days prior to the  
21    adoption hearing, a copy of the order setting the adoption  
22    hearing shall be provided to siblings of the person to be  
23    adopted when either of the following applies:

24    (a) The sibling and the person to be adopted have an  
25    existing relationship.

26    (b) There is a court finding that ongoing contact with  
27    the person to be adopted is in the best interest of each  
28    sibling and the person to be adopted was a minor child when the  
29    parents of the person to be adopted had their parental rights  
30    terminated subsequent to the person to be adopted having been  
31    adjudicated a child in need of assistance.

32    (2) Notwithstanding subsection 3, a copy of the order  
33    setting the adoption hearing may be provided to a sibling via  
34    ordinary mail if the sibling's address is known. A copy of an  
35    order setting an adoption hearing sent to a sibling under ten

1 years of age shall be addressed to the sibling's custodian or  
2 guardian.

3 (3) This paragraph does not require a copy of the order  
4 setting the adoption hearing to be provided to any of the  
5 following:

6 (a) A person whose parental rights have been terminated with  
7 regard to the person to be adopted.

8 (b) Siblings who are placed with the sibling to be adopted  
9 at the time the court issued the order setting the adoption  
10 hearing.

11 (c) A previously adopted sibling, unless the siblings were  
12 the subjects of child in need of assistance or termination of  
13 parental rights proceedings that occurred at the same time.

14 DIVISION V

15 CONFINEMENT OF PERSONS FOUND INCOMPETENT TO STAND TRIAL

16 Sec. 11. Section 812.6, subsection 1, Code 2023, is amended  
17 to read as follows:

18 1. If the court finds the defendant does not pose a danger  
19 to the public peace and safety, is otherwise qualified for  
20 pretrial release, and is willing to cooperate with treatment,  
21 the court shall order, as a condition of pretrial release,  
22 that the defendant obtain mental health treatment designed to  
23 restore the defendant to competency. The costs of treatment  
24 pursuant to this subsection shall be paid by the mental  
25 health and disability services region for the county of the  
26 defendant's residency pursuant to chapter 225C regardless of  
27 whether the defendant meets financial eligibility requirements  
28 under section 225C.62 or 225C.66.

29 Sec. 12. Section 812.7, Code 2023, is amended to read as  
30 follows:

31 **812.7 Mental status reports.**

32 The psychiatrist or licensed doctorate-level psychologist  
33 providing evaluating the progress of the outpatient competency  
34 restoration treatment to of the defendant, or the director of  
35 the facility where the defendant is being held and treated

1 pursuant to a court order, shall provide a written status  
 2 report to the court regarding the defendant's mental disorder  
 3 within, methods used to restore competency to the defendant,  
 4 the defendant's current abilities related to competency,  
 5 and whether it appears the defendant's competency can be  
 6 restored within a reasonable amount of time. The psychiatrist,  
 7 psychologist, or director shall submit an initial report to  
 8 the court no later than thirty days of after the defendant's  
 9 placement pursuant to section 812.6. ~~The report shall also~~  
 10 ~~state whether it appears that the defendant can be restored to~~  
 11 ~~competency in a reasonable amount of time. Progress reports~~  
 12 ~~shall be provided to the court, and subsequent reports every~~  
 13 ~~sixty days or less thereafter~~ after the submission of the  
 14 initial report until the defendant's competency is restored or  
 15 the placement of the defendant is terminated.

16 Sec. 13. Section 812.8, subsections 1 and 3, Code 2023, are  
 17 amended to read as follows:

18 1. At any time, upon a finding by a psychiatrist or licensed  
 19 doctorate-level psychologist that there is a substantial  
 20 probability that the defendant has acquired the ability  
 21 to appreciate the charge, understand the proceedings, and  
 22 effectively assist in the defendant's defense, the psychiatrist  
 23 or licensed doctorate-level psychologist providing evaluating  
 24 the progress of the defendant's outpatient treatment to the  
 25 ~~defendant~~ or the director of the inpatient facility shall  
 26 immediately notify the court. After receiving notice the court  
 27 shall proceed as provided in subsection 4.

28 3. At any time upon a finding by ~~a treating~~ an evaluating  
 29 psychiatrist or licensed doctorate-level psychologist that  
 30 there is no substantial probability that the defendant will  
 31 be restored to competency in a reasonable amount of time,  
 32 the psychiatrist or licensed doctorate-level psychologist  
 33 providing evaluating the defendant's outpatient treatment to  
 34 ~~the defendant~~ or the director of the inpatient facility shall  
 35 immediately notify the court. Upon receiving notification, the

1 court shall proceed as provided under [subsection 4](#).

2 DIVISION VI

3 CONFORMING CODE CHANGES

4 Sec. 14. Section 256.25, subsections 2 and 3, Code 2023, are  
5 amended to read as follows:

6 2. A school district, which may collaborate and partner  
7 with one or more school districts, area education agencies,  
8 accredited nonpublic schools, nonprofit agencies, and  
9 institutions that provide children's mental health services,  
10 located in mental health and disability services regions  
11 providing children's behavioral health services in accordance  
12 with chapter ~~331~~ 225C, subchapter ~~III~~ VII, ~~part 6~~, may apply  
13 for a grant under this program to establish a therapeutic  
14 classroom in the school district in accordance with this  
15 section.

16 3. The department shall develop a grant application  
17 and selection and evaluation criteria. Selection criteria  
18 shall include a method for prioritizing grant applications  
19 submitted by school districts. First priority shall be given  
20 to applications submitted by school districts that submitted an  
21 application pursuant to [this section](#) for the previous fiscal  
22 year. Second priority shall be given to applications submitted  
23 by school districts that, pursuant to [subsection 2](#), are  
24 collaborating and partnering with one or more school districts,  
25 area education agencies, accredited nonpublic schools,  
26 nonprofit agencies, or institutions that provide mental health  
27 services for children. Third priority shall be given to  
28 applications submitted by school districts located in mental  
29 health and disability services regions providing behavioral  
30 health services for children in accordance with chapter ~~331~~  
31 225C, subchapter ~~III~~, ~~part 6~~ VII. Grant awards shall be  
32 distributed as equitably as possible among small, medium, and  
33 large school districts. For purposes of [this subsection](#), a  
34 small school district is a district with an actual enrollment  
35 of fewer than six hundred pupils; a medium school district is a



1 district with an actual enrollment that is at least six hundred  
2 pupils, but less than two thousand five hundred pupils; and a  
3 large school district is a district with an actual enrollment  
4 of two thousand five hundred or more pupils.

5 DIVISION VII

6 CODE EDITOR DIRECTIVE — MENTAL HEALTH AND DISABILITY SERVICES

7 CODE TRANSFERS

8 Sec. 15. CODE EDITOR DIRECTIVE.

9 1. The Code editor is directed to make the following  
10 transfers:

11 a. Section 331.388 to section 225C.55.

12 b. Section 331.389 to section 225C.56.

13 c. Section 331.390, as amended in this Act, to section  
14 225C.57.

15 d. Section 331.391, as amended in this Act, to section  
16 225C.58.

17 e. Section 331.392 to section 225C.59.

18 f. Section 331.393 to section 225C.60.

19 g. Section 331.394 to section 225C.61.

20 h. Section 331.395 to section 225C.62.

21 i. Section 331.396 to section 225C.63.

22 j. Section 331.396A to section 225C.64.

23 k. Section 331.397, as amended in this Act, to section  
24 225C.65.

25 l. Section 331.397A, as amended in this Act, to section  
26 225C.66.

27 m. Section 331.398 to section 225C.67.

28 n. Section 331.399 to section 225C.68.

29 o. Section 331.400, as amended in this Act, to section  
30 225C.69.

31 2. The Code editor shall correct internal references in the  
32 Code and in any enacted legislation as necessary due to the  
33 enactment of this section.

34 3. The Code editor may add a new subchapter to chapter  
35 225C preceding section 225C.55 entitled "MENTAL HEALTH AND

1 DISABILITY SERVICES — REGIONAL SERVICE SYSTEM — CHILDREN'S  
2 BEHAVIORAL HEALTH SYSTEM".

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with  
5 the explanation's substance by the members of the general assembly.

6 This bill relates to mental health and disability services  
7 provided by the state and judicial procedures relating to  
8 child in need of assistance proceedings, adoptions, and the  
9 confinement of persons found incompetent to stand trial. The  
10 bill is organized into divisions.

11 DIVISION I — STATE MENTAL HEALTH INSTITUTES —  
12 SPECIALIZATION. The bill removes persons who solely have a  
13 substance abuse problem as a population eligible to receive  
14 treatment, training, care, habilitation, and support at a state  
15 mental health institute.

16 The bill designates the state mental health institute  
17 located in Independence, Iowa, for specialized treatment of  
18 behaviorally complex youth, and designates the state mental  
19 health institute located in Cherokee, Iowa, for specialized  
20 treatment and security of adults ordered by the court into  
21 the custody of the state for the purposes of competency  
22 restoration, adults who have been acquitted of a crime by  
23 reason of insanity, and similarly situated adults.

24 DIVISION II — CHILD IN NEED OF ASSISTANCE — SAFETY PLANS  
25 — TEMPORARY REMOVAL. The bill allows, in a child in need  
26 of assistance proceeding, a child's guardian to enter into a  
27 safety plan, and prohibits a safety plan from being construed  
28 as a child's removal from a guardian absent a court order  
29 placing the child with a person or facility other than the  
30 guardian who entered into the safety plan.

31 The bill makes a corrective change to Code section  
32 232.95(2)(a) relating to hearings concerning the temporary  
33 removal of a child in child in need of assistance cases.

34 The bill strikes Code section 232.102(10) relating to  
35 transfer of legal custody of a child in a child in need of

1 assistance case for placement and visitation of the child by  
2 the child's grandparents, great-grandparents, and certain other  
3 adult relatives.

4     DIVISION III — MENTAL HEALTH AND DISABILITY SERVICES  
5 REGIONS — GOVERNANCE — CORE SERVICES — REPORT. The bill  
6 makes changes to the regional governance of mental health and  
7 disability services (MHDS) governing boards. The bill allows  
8 each member of an MHDS governing board to have a vote, limits  
9 the number of representatives county boards of supervisors  
10 may have on an MHDS regional governing board to 49 percent  
11 of the total governing board membership, and adds a member  
12 representing law enforcement and a member representing the  
13 judicial system in an MHDS region as representatives on an MHDS  
14 governing board.

15     The bill adds outpatient competency restoration as a core  
16 service for both adult and children's MHDS regions.

17     The bill requires the department of health and human  
18 services (HHS) to deliver a report on an annual basis to the  
19 general assembly that provides a summary of the status of  
20 implementing core services in each region, the accessibility  
21 of core services in each region, how each region is using the  
22 funding provided to MHDS regions, and recommendations for  
23 improvements to the MHDS system in order to attain the outcome  
24 improvement goals set by HHS. Under current law, HHS is  
25 required to give such a report on a quarterly basis.

26     DIVISION IV — ADOPTION NOTICES — HEARINGS. The bill  
27 requires an adoption petitioner to provide a copy of the order  
28 setting the adoption hearing to siblings of a person to be  
29 adopted at least 20 days prior to the adoption hearing when  
30 there is either an existing relationship or a court finding  
31 that ongoing contact with the person to be adopted is in the  
32 best interests of each sibling and the person to be adopted was  
33 a minor child when the parents of the person to be adopted had  
34 their parental rights terminated subsequent to the person to be  
35 adopted having been adjudicated a child in need of assistance.

1 The bill allows a copy of the order setting the adoption  
2 hearing to be provided to a sibling via ordinary mail if the  
3 sibling's address is known. A copy of an order setting an  
4 adoption hearing sent to a sibling under 10 years of age shall  
5 be addressed to the sibling's custodian or guardian.

6 The bill does not require a copy of the order setting the  
7 adoption hearing to be provided to a person whose parental  
8 rights have been terminated with regard to the person to be  
9 adopted; siblings who are placed with the sibling to be adopted  
10 at the time the court issued the order setting the adoption  
11 hearing; or a previously adopted sibling, unless the siblings  
12 were the subjects of child in need of assistance or termination  
13 of parental rights proceedings that occurred at the same time.

14 DIVISION V — CONFINEMENT OF PERSONS FOUND INCOMPETENT TO  
15 STAND TRIAL. The bill requires the MHDS region for the county  
16 of a defendant's residency to pay for the costs of mental  
17 health treatment the defendant receives as a condition of  
18 pretrial release.

19 The bill allows a psychiatrist or licensed doctorate-level  
20 psychologist evaluating the progress of a defendant's  
21 outpatient competency restoration treatment, or the director  
22 of the facility where the defendant is being held and treated  
23 pursuant to a court order, to provide a written status report  
24 to the court regarding the defendant's mental disorder. Under  
25 current law, only the psychiatrist or licensed doctorate  
26 level psychologist providing the defendant's treatment or the  
27 director of the facility where the defendant is being held and  
28 treated can provide the written status report.

29 The bill requires a written status report prepared for an  
30 incompetent defendant to include the methods used to restore  
31 competency to the defendant, the defendant's current abilities  
32 related to competency, and whether it appears the defendant's  
33 competency can be restored within a reasonable amount of time.  
34 The bill requires a psychiatrist, psychologist, or director to  
35 submit an initial report to the court no later than 30 days

1 after the defendant's placement by the court for treatment, and  
2 subsequent reports every 60 days or less after submission of  
3 the initial report until the defendant's competency is restored  
4 or the placement of the defendant is terminated.

5 The bill requires a psychiatrist or licensed doctorate-level  
6 psychologist evaluating the progress of a defendant's  
7 outpatient competency restoration treatment, or the director  
8 of the facility where the defendant is being held and treated  
9 pursuant to a court order, to notify a court if there is a  
10 substantial probability or is no substantial probability that  
11 a defendant formerly deemed incompetent either has acquired  
12 the ability to appreciate the charge against the defendant,  
13 understand the proceedings, and effectively assist in the  
14 defendant's defense or will be restored to competency in  
15 a reasonable amount of time. Under current law, only the  
16 psychiatrist or licensed doctorate-level psychologist providing  
17 the defendant's treatment or the director of the facility where  
18 the defendant is being held and treated could provide such  
19 notice to a court.

20 DIVISION VI — CONFORMING CODE CHANGE. The bill makes a  
21 conforming change to Code section 256.25 (therapeutic classroom  
22 incentive grant program — fund).

23 DIVISION VII — CODE TRANSFERS. The bill transfers Code  
24 sections 331.388 through 331.400 (mental health and disability  
25 services — regional service system — children's behavioral  
26 health system) to Code sections 225C.55 through 225C.69 and  
27 directs the Code editor to make conforming changes.